

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SANDRA JIMENEZ, *on behalf of D.S.J., a minor,*

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

No. 21-CV-2030 (KMK)

ORDER ADOPTING REPORT &
RECOMMENDATION

Appearances:

James M. Baker
New York, NY
Counsel for Plaintiff

Kristina Danielle Cohn
Social Security Administration
Office of the General Counsel
New York, NY
Counsel for Defendant

Amanda Frances Parsels
Office of the U.S. Attorney
New York, NY
Counsel for Defendant

KENNETH M. KARAS, United States District Judge:

Sandra Jimenez (“Plaintiff”) brought this Action pursuant to 42 U.S.C. § 405(g), seeking judicial review of the final decision of the Commissioner of Social Security (the “Commissioner” or “Defendant”), which denied her son’s application for child Supplemental Security Income (“SSI”). (Compl. (Dkt. No. 1).) Before the Court is Plaintiff’s Motion for Attorney’s Fees under the Equal Access to Justice Act (“EAJA”), 42 U.S.C. § 2412. (See Not. of Mot. (Dkt. No. 43).)

On February 14, 2019, Ms. Jimenez filed a claim for SSI on behalf of her son, D.S.J. (R. 11 (Dkt. No. 15).) After her claim was administratively denied, (R. 11, 73–76), Plaintiff requested a hearing before an administrative law judge (“ALJ”), (R. 82–88), and on May 27, 2020, ALJ Mark Solomon held a telephonic hearing, (R. 11). ALJ Solomon issued a decision finding that D.S.J. was not disabled within the meaning of the Social Security Act on June 19, 2020. (R. 11-21.) Plaintiff subsequently submitted a request for review of that decision with the SSA’s Appeals Council, which request was denied on December 11, 2020. (R. 1–5.)

Plaintiff commenced this Action pro se on February 9, 2021. (*See* Compl.)¹ The case was referred to the Honorable Andrew E. Krause. (*See* Order (Dkt. No. 13).) Pursuant to a court order, (*see* Order (Dkt. No. 3)), the Commissioner filed a motion for judgment on the pleadings under Rule 12(c) of the Federal Rules of Civil Procedure on November 23, 2021, (Not. of Mot. (Dkt. No. 21)). Thereafter, Plaintiff filed a cross-motion for judgment on the pleadings on May 23, 2022. (Not. of Mot. (Dkt. No. 33).) On August 18, 2022, Judge Krause issued a Report and Recommendation (“R&R”) recommending that the Plaintiff’s Motion be granted in part and denied in part, Defendant’s Motion be denied, that the case be remanded for further administrative proceedings pursuant to 42 U.S.C. § 405(g), and that judgment be entered in favor of Plaintiff. (*See* R&R (Dkt. No. 40).) This Court adopted that R&R in full, (Order (Dkt. No. 41)), and judgment subsequently was entered in favor of Plaintiff on September 7, 2022, (Judgment (Dkt. No. 42)).

Plaintiff now seeks attorney’s fees and expenses in the amount of \$13,087.00 pursuant to the Equal Access to Justice Act (“EAJA”), 42 U.S.C. § 2412. On November 30, 2022, Plaintiff

¹ James M. Baker appeared on Plaintiff’s behalf on March 28, 2022. (Not. of Appearance (Dkt. No. 28).)

filed her Motion for Attorney's Fees. (*See* Not. of Mot. (Dkt. No. 43); Aff'n of James M. Baker, Esq. (Dkt. No. 44); Pl.'s Mem. of Law in Supp. of Mot. for Atty's Fees (Dkt. No. 45).) The Commissioner filed her opposition on January 23, 2023. (Def.'s Mem of Law in Opp'n to Mot. for Atty's Fees (Dkt. No. 50).) On February 6, 2023, Plaintiff filed a reply and an additional affirmation in support. (*See* Pl.'s Reply Mem. of Law in Supp. of Mot. for Atty's Fees (Dkt. No. 51); Reply Aff'n of James M. Baker, Esq. (Dkt. No. 52).)

On May 31, 2023, Judge Krause issued a thorough and well-reasoned Report and Recommendation ("Fees R&R") recommending that the Court grant the instant Motion. (*See* Fees R&R 9 (Dkt. No. 54).)² The Parties did not file any objections to the Fees R&R. (*See generally* Dkt.)³

When no objections are filed, the Court reviews a report and recommendation for clear error. *See Brito v. Comm'r of Soc. Sec.*, No. 19-CV-10631, 2022 WL 1002698, at *1 (S.D.N.Y. Mar. 30, 2022); *Bickram v. Comm'r of Soc. Sec.*, No. 18-CV-1160, 2021 WL 2665876, at *1 (S.D.N.Y. June 29, 2021); *Muniz v. Comm'r of Soc. Sec.*, No. 18-CV-8295, 2021 WL 293381, at *2 (S.D.N.Y. Jan. 28, 2021); *Andrews v. LeClaire*, 709 F. Supp. 2d 269, 271 (S.D.N.Y. 2010). The Court has reviewed the Fees R&R and Plaintiff's Motion for Attorney's Fees, and finding no substantive error, clear or otherwise, adopts the Fees R&R.

Accordingly, it is hereby:

ORDERED that the Fees R&R, dated May 31, 2023, is ADOPTED in its entirety.

ORDERED that Plaintiff's Motion for Attorney's Fees is GRANTED.

² The instant Motion was also referred to Judge Krause. (*See* Order (Dkt. No. 53).)

³ Judge Krause provided notice that, pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, objections to the Fees R&R were due within fourteen days after being served with a copy. (Fees R&R 9.)

ORDERED that Defendant shall pay Plaintiff's counsel James M. Baker, Esq. the sum of \$13,087.00.

ORDERED that the Clerk of the Court is respectfully directed to terminate the pending motion, (Dkt. No. 43).

SO ORDERED.

Dated: October 6, 2023
White Plains, New York



KENNETH M. KARAS
United States District Judge